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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/668,897

09/23/2003

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2495

24392 7590 12/19/2008  
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EXAMINER

MASINICK, MICHAEL D

ART UNIT

PAPER NUMBER

2128

MAIL DATE

DELIVERY MODE

12/19/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/668,897

**Applicant(s)**

FIMA, RAOUL G.

**Examiner**

Michael D. Masinick

**Art Unit**

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

Claims 1, 3-7, 8-20 are pending in this application. Claims 2 and 8 were cancelled in the amendment dated 7/11/2008.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-7, 9-17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,441,070 to Thompson et al in view of U.S. Patent No. 5,956,248 to Williams et al.

3. Referring to claim 1, 13, and 16, Thompson shows a system for monitoring and controlling water consumption where water flows through a conduit from a water supply to at least one component in which water flow is an operating condition of said at least one component, comprising: at least one sensor for monitoring the water flow and consumption, including water temperature or water pressure in the water based system and for generating signals indicative of the operation thereof; at least one module for receiving signals from the at least one sensor; at least one fluid control device operable with the at least one interface module for restricting water flow and consumption in the water based system when at least one of the

water temperature or water pressure exceeds a predetermined threshold level. These are all clearly shown in the abstract of Thompson.

4. Thompson does not specifically show that the module is an interface module to be entered into a power panel. Thompson does not show a processor residing in the power panel, the processor being in communication with the interface module for interpreting signals from the sensor.
5. Williams shows an irrigation controller where individual modules, each assigned to a valve, are attached to a main controller BUS (motherboard), a processor residing in the power panel, the processor being in communication with the interface module for interpreting signals from the sensor. See specifically column 4, line 66 through Column 5, line 39.
6. The concept of splitting a control system into "modules" is well known. Modules allow for both cost savings when creating a system (ability to customize and not purchase extra unneeded functionality), for expandability if needed in the future, and for easy replacement if a single module fails or is destroyed.
7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the concept shown in Thompson of having a sensing device, interface, and control system to control water consumption with the power panel and interface module system of Williams because of the reasons stated above (Shown in Williams in Column 6, lines 51-68).
8. The recent KSR vs. Teleflex decision by the U.S. Supreme Court states that the "Use of known technique to improve similar devices in the same way" should result in a finding of obviousness.

9. In this case, the basic concept of sensing a water consumption parameter, receiving the signal, and controlling a valve based on calculations made from that signal is known from Thompson. The use of a module system with a power panel and communication BUS is known from Williams. Williams improved the previous irrigation controller systems by breaking the control system into modules that were easily replaceable and expandable. The same improvements can be made to the system of Thompson to arrive at the claimed invention, thus a finding of obviousness must be made.

10. Referring to claim 3, Thompson shows wherein the sensor comprises a fluid flow sensor to sense the water flow within a component of the water-based system (abstract).

11. Referring to claim 4, Thompson shows wherein the sensor comprises a fluid pressure sensor (abstract).

12. Referring to claim 5, Williams shows wherein the fluid control device comprises a valve in a water supply line of a component of the water-based system (Column 2, "controller 2" shows valves).

13. Referring to claim 6, Thompson shows wherein the interface module controls the fluid control device for disconnecting a water or energy source from the water-based system (Abstract – "shut off valve").

14. Referring to claim 7, Thompson shows wherein the processor receives the signal from the sensor, and in response thereto, communicates with the interface module to close the valve in the water supply line (abstract).

15. Referring to claims 9-11, Williams shows a motherboard with a communications port, an "information port", and configuring the module by a remote computer via the information port (Columns 4 and 5 show the programming and communications connections relating to the modules. It should be noted that column 3 also incorporates by reference patents 5,262,936 and 5,272,620 which are typical controllers based on microprocessors).

16. Referring to claim 17, Williams shows wherein the processor is in a housing providing a circuit box for receiving the at least one sensor and receiver, each of the at least one sensor or receiver acting as a circuit breaker of the monitored water-based system to protect from malfunction of the water-based system. Examiner notes that the specification is not clear as to what is meant by this claim language. Specifically, the specification shows a variety of sensors placed at or under the device being monitored - so the sensors can't be placed inside the housing with the receiver in a common area. Williams clearly shows a housing for protection of the receiving circuitry to receive signals from an external sensor. Appropriate explanation is required if the claim language is maintained.

17. Referring to claim 14, Thompson shows where the system is in a residential structure.

18. Referring to claim 15, Thompson shows a toilet being monitored. A tank-less toilet is a type of toilet and would have been obvious to monitor using the system of Thompson/Williams as it is a water using device.

19. Referring to claim 19, as the system of Williams is a computerized system it is already inherently connected to a "multimedia interface". Additional claim elements or explanation of the meaning of "interactive video communication" would be necessary to distinguish this claim over the prior art.

20. Referring to claim 20, Williams shows a motherboard for receiving said processor, the motherboard having a connection for electronically communicating with one or more processors on other motherboards. It has been shown above the Williams contains a processor. All computer devices inherently must have a motherboard in order to use the functionality of the processor.

21. Claims 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,441,070 to Thompson et al in view of U.S. Patent No. 5,956,248 to Williams et al as shown above and further in view of U.S. Patent No. 6,061,603 to Papadopoulos et al.

22. Papadopoulos shows the use of network (specifically internet) communications with regard to controlling devices. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a network interface to allow the system to be programmed remotely and allow the system to output data to an external user display.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D. Masinick whose telephone number is (571) 272-3746. The examiner can normally be reached on Mon-Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on (571) 272-2279. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*/Michael D Masinick/  
Primary Examiner, Art Unit 2128*